IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

APPEAL NO.381 OF 2007
IN
ARBITRATION PETITION NO.403 OF 2006

Harish Advani. ...Appellant.
Versus
Cherish Investments P. Ltd.& Ors. ...Respondents.

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APPEAL (LDG) NO.409 OF 2007
IN
ARBITRATION PETITION NO.402 OF 2006

Regency Hotels Pvt. Ltd. ...Appellant.
Versus
Cherish Investments Pvt. Ltd. & Ors. ...Respondents.

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Mr.D. B. Shroff i/b. Crawford Bayley & Co. for Regency Hotels.
Mr.Shiraz Rustomjee i/b. M/s. Chitnis & Co. for the Appellant.
Mr.Cyres Ardeshir i/b. M/s. Kanga & Co. for Respondent Nos.1 and 2.

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CORAM : SMT.RANJANA DESAI &
DR. D.Y. CHANDRACHUD, JJ.

October 1, 2007.

P.C.:

In the impugned order the Learned Single Judge has observed as follows:

> "Learned Counsel for the submitted that at lest part of the award is bad and if any part of the award is bad the entire award needs to be set aside. Learned counsel for the respondent Nos.1 and 2 submitted that if part of the award is bad the court can severe the bad part from the good part after setting aside the bad part of the award."

2. Learned Counsel appearing for the Appellant submits that such submission was not advanced by him. Learned Counsel appearing for the Respondents concedes this position. On 20th March 2007, Learned Counsel appearing for the Appellant moved the matter before the Learned Single Judge for Speaking to the Minutes because the Appellant's case is that entire award is bad and that submission was not was not reflected in the order. However, the Learned Single Judge did not pass any order. In view of the undisputed position as it emerges from the statements made by Learned Counsel, we think it appropriate to set aside the impugned order and give liberty to the parties to move the Learned Single Judge for fresh hearing of the petition. We accordingly set aside the impugned order and give liberty to the parties to move the Learned Single Judge for fresh

hearing. Learned Counsel appearing for the Respondents submits that the contention of the Appellant is that the entire award is bad in law. However, according to the Respondents, even if a part of the award is bad and rest of the award is good, the good part of the award can be sustained. He submits that if that question arises, the matter will have to await the decision of the Division Bench because the Division Bench is seized of that issue. In view of this, we keep the question of severability open. All contentions raised by both the sides are kept open.

The appeals are disposed of.

SMT.RANJANA DESAI, J.

DR. D.Y. CHANDRACHUD, J.